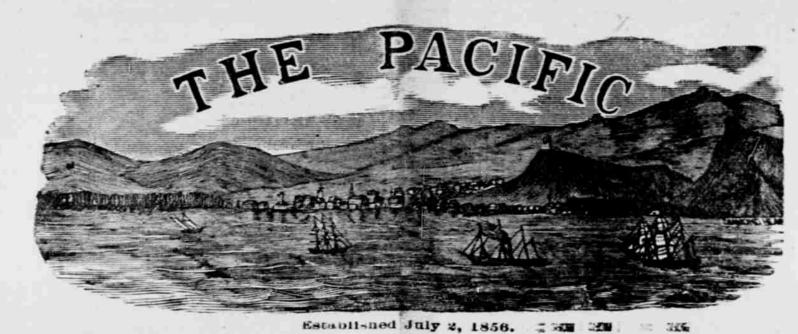
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Letters From Count Okuma and the Replies.

No Claim Made By Japan-Asks Recognition of Principles of Indemnification-Offer to Arbitrate.

For several weeks past items of news pearing on the Japan-Hawaii difficulty have appeared in San Francisco papers and purporting to come from officials at Washington. The fact that the press of Honolulu has been denied information by the Foreign Office here has made the appearance of these items in the foreign press the more aggravating to the public generally and the reporters particularly. It has been mooted for some time that has been the intention of Minister Cooper to make public all matters connected with the case, and that he has een waiting for a communication from Washington before doing so. This communication was expected by the Australia, but it failed to arrive, and the Minister concluded to wait the arrival of the Moana. His plans were evidently changed again on reading the newspaper item concerning this Government's offer to arbitrate, for yesterday morning ne notified the press to meet him in his office at 11 o'clock. As a preface Minister Cooper said:

"The correspondence opened with a protest from H. I. J. M.'s Minister Resilent Shimamura at the action of the Hawaiian Government in rejecting certain immigrants who came by the Shinshiu Maru. In fact, almost the entire correspondence," continued the Minister, "has been carried on with reference to this particular ship, although the other steamers have been mentioned incidentally, as the facts are the same in the

"Minister Shimamura's official protest came to me on March 20th, and occurred through the captain of the Shinshiu Maru notifying him that the immigrants were to be taken back on his ship. The Minister based his protest upon the stipulation in the treaty between the two countries. After a preliminary correspondence. I replied to his protest by a

letter dated April 2d. "In this I announced the position of the Government and gave him the reasons why the immigrants by the Shinshiu migrants were of three classes: First, those who had contracts in writing, with their name the immigration companies, for labor in this country and who had no funds in heir possession. Second: Those who had a memorandum f agreement with the Kobe Immigration ompany, the Hiroshimo Immigration

Company, "Third: Those who came indepenent of any immigration company. 'As to the first class," said Minister Cooper, "previous to the arrival of the Shinshiu Maru, W. J. Gallagher, who by a statutory fiction, were deemed to be represented himself as being associated without the territorial limits of Hawaii. with the Kobe Immigration Company, called here and stated that the usual proceedure had not been compiled with, and asked that the immigrants might This request was denied, because they were not coming under the rule isting treaty between the two Governprovided for in Section 1 of Act 66, ments. The proper regulation of immiof the laws of the Provisional Govern- gration, he admits is the legitimate ex-

Company, or the Morioka Immigration

had contracts, to perform labor in this ily and capriciously enforced, and that country, which had been executed pre- the extra judicial proceedings of the Havious to their leaving Japan. It also appeared that the passage of these immigrants had been prepaid by the company to intervene was a denial of justice. The and that they were entirely without

igation on the

so the immi-

All of these were refused landing, because their contracts had not been approved by the Board of Immigration. Of the entire number of immigrants but 37 that these acts will not be repeated. were permitted to land for the reason of their having approved contracts: "As to those of the second class, there in possession of \$50 each, but denied the right to land for the reason that they companies, with whom they had made a memorandum of agreement, which, my first letter was not one of argument among other matters, contained a cov- or defense. It was a mere statement of enant on behalf of the immigration companies, through their managers, that they would secure employment for the now this Government has been charged to the Quarantine Station," said Minisemigrants on their arrival in this country. The ruling on this point was to the | sion. effect that it was an unlawful undertaking on behalf of the immigration companies, and also the immigrants, as be-

policy of this Government has continued n lines heretofore set forth to represen-"I called attention to a dispatch to Minster Shimamura's predecessor, Mr. Shi-

mizu, in which it was said that 'this Government feels at liberty at all times to limit or suspend immigration, especially was not done on account of prejudice against Japanese subjects, but in pursuance of a desire on the part of this Government to control the influx of im-migrants who were to be employed as

"A few days later, April 6th, I think, Minister Shimamura replied, and after expressing the usual felicitations, said

"'In Japan's dealings with Hawaii, small as it is, has been and will continue to be of that high order of conduct and courtesy with which it deals with the more powerful nations.' Further along the Minister stated that the matter would have to be submitted to his Government for determination, but he continued to point to what he believed was a violation of the treaty, for he said: 'Referring to the immigrants of the first class. Although they may not have complied technically with every requirement of the Board of Immigration, yet they have with the spirit of it.

" 'Taking a larger view of the matter, continued Minister Shimamura, 'would it not have been best not to have imposed upon the ignorant people after they have broken up their homes and sold their effects, only to be rejected here, simply because they have not complied with the Board of Immigration? You have been continued the Minister, 'regarding the second class, as to the nature of that memorandum of agreement. It was the result of the general laws of the Japanese Government pertaining to all emigrants from Japan, so as to provide against what might be serious suffering of Japanese emigrants in this country This regulation should have the approval of your Government as providing a means means of support for the emigrant after he arrives here. This class came, not as contract labor, but as free immigrants. Having presented the required \$50, in acordance with the treaty, they should have been permitted to land. "I cannot see," continued Minister

Shimamura in this same letter, 'that a distinction should be made between Jap anese who have resided in this country and those who have not. "Following this," said Minister Cooper, he deals with our proposition to suspend mmigration when conducted by private parties. He contended that the Government has not the right to limit nor modfy except by an alteration of the treaty. "Under date of Tokio, April 19th, and received by me at the hand of Minister Shimamura on May 11th, was a letter, written by Count Okuma, Japanese Minster of Foreign Affairs, in which he reciaes the fact of the nature of the emigrants by the Shinshiu Maru on April 9th. In this communication Count Okuma informs this Government that he has given thoughtful and deliberate consideration to all the questions involved and, although influenced by a friendly desire o accord due weight to every extenuatng circumstance, the Government considers that the inhospitable acts comclained of were in derogation of the conventional rights of Japanese subjects. Directly under the treaty of 1871 and ndirectly by application of the most faored nation principle to treaties now in orce between Hawaii and other countries, Japanese subjects, absolutely and equally with Hawaiian citizens are one. at liberty, freely and securely to enter with their ships and cargos all places,

ports and rivers in Hawaii which are open to foreign commerce. "2. They have the right to travel, trade, reside and exercise every profession or industry in all parts of Hawaii. "3. They are entitled to constant and complete protection from the Hawaiian Government for their persons and property, as well as in regard to civil rights "4. They are also entitled to free and easy access to the courts of justice of Hawaii in prosecution and defense of their rights, in every instance and degree of jurisdiction established by the laws

"5. They are at liberty, under any and Maru and Sakura Maru were not allowed all circumstances, to choose and employ lawyers and solicitors, advocates or agents from any class whom they may see fit to authorize to act for them or in

'In disregard of these rights,' wrote Count Okuma, '460 Japanese subjects, after being confined for some considerable time, and without any judicial determination, without having access to the courts, without having permission to consult with our representative, were ignominiously expelled from the country. "It is not suggested that similar treatment would, under any circumstances, be meted out to Hawaiian citizens. In fact, the action was based upon the fact that persons concerned were aliens, who, "Count Okuma said, also, that his Gov ernment was convinced that Act 17 of 1895 and Act 66 of the preceding year, if correctly interpreted by Hawaiian authorities, is in contravention of the exment. When the steamer arrived, it was ercise of the police power of the State, found impossible to make a proper inves- and reasonable laws on that subject, reasonably administered by Hawaii, provoke no remonstrance from Japan. In the present case the laws were a re-"It was then found that 146 immigrants | versal of the existing precedents arbitraconclusion being that the Japanese Govthis Government will recognize the prin- dence ciple of indemnification and, further, that they ask for the additional assurance "The particulars regarding the amount be made the subject of a further com-

communication has not yet been refacts. The correspondence which has followed, has brought out other points, and

with shifting its policy to suit the occa-"I replied to this letter on May 24th, and my answer to the first point in his was a misunderstanding, for it seems he communication was that the examina- understood me to say 'result,' and in this

dependently of any company and pos-ssed the necessary qualifications to rights guaranteed them by the treaty. come within the and were permitted to do so. As to the The acts mentioned were reasonable reg- courts, they are clearly within the terulations to protect residents of this country against undesirable immigrants, and at all, wrote Minister Shimamura, 'to enthe Morioka Immigration Company sim- that the validity of the acts cannot be ter into a discussion of the nature of the successfully assailed on the ground that examination of the Customs authorities they are in violation of the treaty, as and whether that examination is final or they make no discrimination between the not. The Hawaiian Government must subjects of Japan and any other country. | naturally have responsibility for the fair-That the provisions of Section 1, Act 66, of the Laws of 1894, are well within the reasonable exercise of the police power of the State, that such laws are neces- Justice Judd, acting as a single Justice, sary to the peace and well-being of a decided that a man, with a certificate of nation. The right to pass such laws is deposit on a bank here, was eligible to inalienable and well within the laws. I land, as the certificate of deposit was leinsisted that this Government, in com- gal under the act. mon with other independent nations, maintains the right to protect itself Minister Cooper, "the Supreme Court deagainst injurious consequences which would arise, both from unrestricted im- than to inquire whether the law has been migration of individuals, dangerous to the country in its moral, sanitary and economic interests and from an immigration, stimulated beyond its natural course through the enterprise of individuals and that they were returned to the ship companies promoting such immigration through menace and cheat. The Minister from motives of profit, which stimulates said, further; emigration, tends to the embarrassment "But what of the labor condition and, indirectly, to the orderly status of the community and, possessing this power, is to be exercised for the protection and security, is clothed with the right to determine the occasion on which the power may be called forth. "I am not aware," continued Minister Cooper, "that the favored-nation clause in any treaty has ever been construed to this great length, and, at the same time, while not agreeing to the claim of His Excellency, that Japanese subjects have the right to travel, trade, reside and exercise profession and industry in all parts of Hawaii, I should maintain that Kinney & Ballou, when the case was in provision if all treaties between Hawaii court, repeatedly refused to answer my and other countries are subject to its question as to who retained them. This constitution and such laws which have supports the previous contention that the been passed by the Legislature.

> accorded to them One of the complaints made by Minster Shimamura was that which referred to the treatment of immigrants while in quarantine, in so far as it related to their being denied the privilege of a conference with their representative or the services

of a lawver. "In dealing with this phase of the controversy," said Minister Cooper, "I drew his attention to the fact that the Shinshiu Maru arrived here on the 27th of February. The period of quarantine expired on March 10th, and habeas corpus proceedings began the same day, but not intil the 17th of March, one week later, was any request received from him to have a personal examination of the immigrants. I remember it very well, for had my hat on and was ready to go to juarantine when his message arrived. I tepped to the telephone and told him hat I would be glad to have him go over with me in my boat and to meet me at Brewer's wharf. Minister Shimamura cept the appointment, and with him were Attorney Humphreys and the Secretary of the Legation. On arrival at the station, and as I was going into the room to begin the investigation, Mr. Humph-reys stepped forward and stated that Mr. Shimamura requested a private and personal investigation. I immediately asked the purport of it, and Mr. Shimamura declined to give it. He and his party

then left the station. "Afterwards I received a letter from Mr. Shimamura, asking for a private and personal investigation, and this was given him. The Japanese Government has stated that immigrants were denied permission to see their representative or to consult a lawyer. I particularly investigated this and found that the immi-Shimamura, nor did they ask for a law-

"Then there was the contention over taking the immigrants from the ship. In touching this point in my communication, I explained that it was done in order to perform quarantine duties and make the confinement less a hardship. As a matter of fact, it was an act of humanity to the immigrants. "It is true enough that Hawaii was in

strumental in instituting the emigration of the Japanese to this country, but only under a specific understanding, more particularly set forth in the convention entered into between the two Governments in 1886, but in no instance has Hawaii ever sought to effect a colonization by emigrants from Japan, and has ever from Japan when conducted by private parties. There has been no reversal of any precedents heretofore established. The Government has made repeated attempts to prevent the illegal immigration which it has felt satisfied has been in progress for a considerable period, but which until the case of the immigrants of the Shinshiu Maru had been unsuccessful. As a matter of fact, I was in receipt of letters from the agents of two rival immigration companies, informing me of the fact and offering to give bonds for the proper performance of their duties as immigration agents, provided they were given exclusive right to bring the immigrants here. . It was on this infor-

mation that I acted. "The immigration laws are not in contravention of the treaty," wrote Min-ister Cooper, "and their enforcement was justifiable. This Government refuses to recognize that any principle of indemnification applies in the premises. In regard to the assurance that the acts of this Government should not be repeated, we claim that we were justified in a former action. If a similar infraction should take place a like action would necessarily follow "Following this," said Minister Cooper,

"I received a request from Minister Shiswered this by saying that if the interview was confined to matters in the correspondence, I would be glad to accord it to him, but if other matters were to be brought up, I would insist that they be by correspondence. We had one or two interviews, and, finding that the business was branching out, the interviews were dropped and the negotiations ernment entertained the expectation that have since been conducted by correspon-

"Under date of June 4th, Minister Shimamura wrote, inquiring about the extended quarantine. I explained to him that German measles had broken out the of the claim, Count Okuma wrote, would day the quarantine period expired, and under the quarantine regulations, it was munication, but I may say here, that the necessary to continue it. Then came a letter of many pages. We call it here the '78-page letter,' in which the whole matter was reviewed. Referring to the Mr. Cooper, continuing his conversa-tion, said: "You will understand that question of the connection of Kinney & Ballou with the case, he said they were

advocates of the immigrants. "The day Minister Shimamura, his Sec retary and Mr. Humphreys went with me ter Cooper, "and the Minister asked for the private interview, you will remember, I asked the purport. Evidently there

ness and righteousness of examination. "Reference was made in this letter to a case in November, 1896, when Chief

"But under a later decision, continued cided that it has no jurisdiction other complied with.

"Minister Shimamura, in his letter, stated that the immigrants did not know the decision of the Customs authorities, and " 'But what I wish to know is, why the Hawaiian Government has not taken the trouble to notify us? If you had intimated to us a change in your immigration

policy, then these people would not have come. I am sure the Japanese Govern-ment will not stop in this matter until it has received the most satisfactory answer.' This was answered by me on June extension of quarantine. I also reviewed the connection of Kinney & Ballou and "It is strenuously denied that the immigrants were entitled to any further consideration of residential rights than was and were never denied. I stated that his examination amounted to nothing; be-

cause he had been granted the request. "Regarding the jurisdiction of the Supreme Court, I stated that the Legislature had the right to establish the tribunal as it may see fit, and that the decision is final. The fact remains that the petition of S. M. Ballou was not only heard on behalf of the immigrants, but the decision was to the effect that the Supreme Court has decided that all proceedings relative to their rights of immigrants to enter a country have been properly conducted, so that, after all has been said, nevertheless they have had their day in court.

"I wrote him that I understood from his letter that he did not intend to discuss the merits of the proceedings before the Customs authorities. Regarding the admission of women, having relatives here, I stated that this was in accordance with a previous ruling by this department, and as to men who previously resided here, they were admitted for the reason that the Government considered their status different, and did not care

to raise the question of vested rights. "The Japanese Government contends that we cannot go behind the simple possession of the \$50. The law construes it differently; in this case 'possession' is synonymous with ownership. I cannot give you money merely to be handed back to me as you step off the gangplank. The money these men had, it appears, was handed them to show the Customs official, an act in itself sufficient to warrant their being sent back. I contend that the burden of proof is on the immigrant, not upon the Government; he is to prove ownership of money. I understand that the memorandum grants had never asked to see Minister which these men carried, comes within the purview of Section 1, Act 17, Laws of 1895, and the mere fact that it might, under certain circumstances, be optional for the immigrant to avail himself of the employment guaranteed, does not take it out of the provisions of Section 1, Act 17. It became very apparent, by the guarantee given by the immigration company, that it would do everything in its power to supply employment for the men, could not be carried out by it.

"It was well known to the Executive that the planters had been supplied with all the labor necessary, and that through the proper channels more men would mean an over-supply. It is, further, clearly shown that these immigrants were all agricultural laborers, and as such did not come within the terms of claimed the right to suspend emigration | the treaty of 1871, which clearly limits the immigration of the Japanese subjects to the merchant class. This interpretation of the treaty has been adopted by the Japanese authorities regarding the emigration of Hawaiian citizens, and the mere fact that heretofore the immigrants from Japan of this character have been allowed to enter this country is no answer to the question. The position is, in fact, limited in its scope, and does not bind this country to accept immigrants from Japan of the class in which the

person in question belongs "This is more conclusively shown that when the immigration of this class was about to begin it was found necessary to enter into a convention under which the immigration Japanese subjects was successfully carried on to the satisfaction of this Government. Emigrants who have left Japan, not under the auspices of the convention, but under contracts for service, the form of which has been approved by the Board of Immigration, may well be considered to be voluntary emigrants coming neither under the provisions of the treaty or the convention. This Government was glad to welcome such sub-



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